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VIA ECFS

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte*
In the Matter of Updating the Intercarrier Compensation Regime to
Eliminate Access Arbitrage, WC Docket No. 18-155

Dear Ms. Dortch:

On August 16, 2018, James Groft and Jeff Roiland, the CEOs of Northern Valley Communications, LLC, and BTC, Inc. d/b/a Western Iowa Networks, respectively (collectively the “CLECs”), met with Jay Schwarz, Wireline Advisor to Chairman Ajit Pai, to discuss matters related to the above-referenced proceeding. Myself and my colleague, John Nelson, also attended as the CLECs’ counsel. The purpose of this meeting was for the CLECs to discuss concerns with the Commission’s Notice of Proposed Rulemaking (the “Access Stimulation NPRM”), including the unsupported allegations and factual omissions in the comments and reply comments submitted by the IXCs and CEA providers, as well as to discuss the benefits that high volume services have provided to these rural carriers and to consumers nationwide. The presentation attached as **Exhibit A** was used during the discussion.

I began our meeting with Mr. Schwarz by briefly describing the CLECs’ various concerns with respect to the Access Stimulation NPRM, including: (1) how quickly the Commission moved forward with the NPRM proceeding; (2) the lack of post-*Connect America Fund Order* data and evidence that was used to guide the Commission’s proposals; and (3) how the Commission’s recent *INS Tariff Order* resolved many issues that have generated recent disputes, thereby making the reforms proposed in the Access Stimulation NPRM unnecessary. Mr. Groft and Mr. Roiland thereafter provided an overview of their companies, both of which have sought to comply with – not evade – the Commission’s 2011 *Connect America Fund Order*, and the benefits their CLECs are able to provide to consumers and their rural economies through their involvement in access stimulation.

In discussing the benefits the CLECs are able to provide because of their involvement in access stimulation, Mr. Groft mentioned the millions of dollars that Northern Valley and other access-stimulating CLECs invest in broadband deployment every year. After making this point, Mr. Schwarz asked why broadband investment could not occur if access stimulation was removed as one of the CLECs’ revenue streams, and I responded by explaining that those CLECs

investing in rural broadband deployment are not able to access the Connect America Fund and that most carriers who are eligible to receive Connect America Funds are not interested in deploying broadband in underserved and unserved areas, as they do not find it economically advantageous to do so. Mr. Groft reasserted these points and explained that, unlike the ILECs and IXCs who are not from these rural areas, the access-stimulating CLECs are committed to investing in broadband deployment, as the communities they are investing in are the ones they live and work in every day.

I went on to explain that (1) the available evidence obtained in Northern Valley's federal litigation with AT&T shows how much IXCs actually benefit from access stimulation and (2) a secondary expert report that is currently being drafted to support the CLECs' positions shows that placing free conferencing services in these rural areas is efficient. Mr. Schwarz indicated he was interested in this evidence and the economic analysis that is being performed. I promised to provide him with a copy of the economic analysis once it is completed and explained that, while AT&T required NVC to destroy the underlying data after the two companies reached a settlement, I could provide him with a copy of the publicly-available hearing transcript wherein the results of the data analysis and AT&T's access-stimulation-related profits are discussed. That transcript is attached hereto as **Exhibit B**.

In concluding our meeting, I again expressed the CLECs' concern about the fact that many allegations were made in the NPRM that are not supported by current evidence contained in the record and that it appears that, for the first time, the Commission is singling out and discriminating against one particular type of traffic. Mr. Groft asked Mr. Schwarz if he supported evidence-gathering and fact-based rulemaking in this docket before the adoption of any proposed rules. Mr. Schwarz assured the CLECs that he remains committed to the principle of evidence-based rulemaking.

Pursuant to Section 1.1206 of the Commission's rules,¹ a copy of this letter is being filed via the Commission's electronic comment filing system ("ECFS"). If you have any questions, please do not hesitate to contact me.

Sincerely,



G. David Carter

cc: Jay Schwarz
John Nelson, Esq.

¹ 47 C.F.R. § 1.1206.